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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee
on Economic, Social and Cultural Rights

Federal Republic of Germany

1. The Committee considered the third periodic report of Germany on the implementation of the Covenant (E/1994/104/Add.14), together with the written replies to the list of questions, at its 40th to 42nd meetings, held on 23 and 24 November 1998, and adopted the following concluding observations. 1/

A. Introduction

2. The Committee welcomes the submission of the third periodic report, the first report on the rights protected under the Covenant since the reunification of Germany in October 1990. The report was submitted in general conformity with the guidelines established by the Committee.

3. It notes with appreciation that the report was presented by a high-level delegation, which entertained an open and straightforward dialogue with the members of the Committee. The delegation pointed out at the outset that the new Government of Chancellor Schröder had a different agenda from that of the former Government on a wide range of socio-economic issues, and that it accorded high priority to job creation.

1/ At its 54th meeting, held on 2 December 1998.

4. The Committee notes that the report was prepared without the involvement of non-governmental organizations. Their contributions were nevertheless valuable to the Committee for the consideration of the State Party's report.

5. The Committee notes that some of the replies given to questions raised in the following areas lacked precision and detail:

Unemployment in the new Länder;

The number of civil servants and professionals who were dismissed from their posts in East Germany after the reunification of Germany;

The number of poverty-stricken people and social security recipients;

HIV/AIDS victims, the exploitation of women and child abuse;

Pension plans.

B. Positive aspects

6. The Committee welcomes the very positive attitude demonstrated by the delegation in its introductory statements, which, together with the policy statement made by the new Chancellor, on 10 November 1998, leads the Committee to believe that the new Government intends to give added impetus to the implementation of economic, social and cultural rights.

7. In this connection, a visible shift in policy, reflected in the new policy statement, could lead to the progressive realization of economic, social and cultural rights to a fuller extent and could reduce the still-existing economic gap between the old and new Länder, to the particular benefit of the new Länder.

8. The Committee notes with satisfaction that this policy will encompass:

Education and training programmes to assist young people in general and young women in particular in finding employment, especially in the new Länder;

Modernization of the law on nationality to allow for dual nationality;

The elaboration of an action plan aimed at ensuring equal opportunities to women at work;

The promulgation of the Gender Equality Act;

The creation of school and child-care systems that reflect the needs of family life;

The introduction of bills aimed at eliminating discrimination based on ethnic origin and at prosecuting Germans for child sexual abuse they commit abroad;

The reform of the pension system based on the national insurance scheme, company pension schemes, a private pension scheme;

The participation of employees in their companies' productive capital and profits;

The reintroduction of protective measures against dismissals, as well as the payment of sickness allowances.

9. The Committee notes the creation of the post of Minister of State for Cultural Affairs, who will be responsible for implementing the federal cultural policy and for liaising with the Länder. In this connection, it notes with satisfaction that cooperation with churches and religious communities will be part of that policy, which is intended to enhance the dialogue between different religious communities and to reduce racial hatred and xenophobia.

10. The Committee takes note of the State Party's intention to establish an independent parliamentary human rights commission and to create a "human rights post" within the Foreign Ministry.

11. The Committee welcomes the fact that the State Party is open-minded concerning the elaboration of an optional protocol.

D. Factors and difficulties impeding the implementation of the Covenant

12. The integration of East and West Germany remains only partly accomplished, despite determined efforts to realize this objective. This lack of full integration presents an obstacle to the full implementation of the Covenant by the State Party.

E. Principal subjects of concern

13. The Committee expresses its concern about the status of the Covenant within the domestic legal system of Germany and at the lack of court decisions on the application of the Covenant.

14. The Committee notes that unemployment is still particularly high in Germany and that it is twice as high in the East as in the West. In this connection, the Committee notes with regret that women and foreigners are most affected by this high level of unemployment.

15. The Committee also notes that no poverty line or threshold has yet been established. Nor has the delegation of the State Party provided information about people affected by poverty.

16. The Committee also notes with alarm that only 12 per cent of public servants in the science and technology sector of the former German Democratic Republic, including teachers, scientists and professionals, have been re-employed and that the rest remain without employment or adequate compensation or a satisfactory pension plan. The Committee fears that the majority of the affected people may have been dismissed from their positions for political rather than for professional or economic reasons, in violation

of article 2.2 of the Covenant. It is noted in this connection that the issue of discrimination in the employment of teachers in the new Länder was raised in 1993 by the ILO Committee of Experts on the Application of Conventions and Recommendations. Similar concerns have been raised by German non-governmental organizations.

17. The Committee is also concerned about the status of asylum seekers in Germany, especially with regard to the length of time taken to process their application for refugee status and with regard to their economic and health rights pending the final decision.

18. The Committee is further concerned about the plight of the Sinti and Roma (Gypsies) in Germany and about their enjoyment of their rights to housing, education and employment. The continued discrimination against the Gypsies calls for immediate remedial policies and measures.

19. The Committee notes that, with few exceptions civil servants in Germany do not enjoy the right to strike, which constitutes a violation of article 8.2 of the Covenant.

20. The Committee is particularly concerned about violence against women, especially those who fall victim to marriage trafficking, trafficking for prostitution and exploitation. Statistics are lacking on the number of persons affected.

21. The Committee is alarmed at the continued abuse of children and their sexual exploitation. Widespread pornography is of particular concern as it seems to be linked with the exploitation of children and women.

22. The Committee notes with concern that tuition fees for university education are increasing, despite the fact that article 13 of the Covenant calls for the progressive introduction of free higher education.

23. The alarming number of persons affected by HIV/AIDS in the territory of the State Party also causes concern to the Committee. Lack of statistics on the subject, especially with regard to the most vulnerable groups of people residing in Germany, is of special concern.

24. The Committee also expresses its concern about the plight of homeless people, the actual number of whom is still unknown, as well as about the plight of squatters in many parts of the country, especially in the new Länder.

F. Suggestions and recommendations

25. The Committee recommends that the State Party give more prominence to the rights recognized in the Covenant whether by legislative or by judicial means and/or practices. The policy statement of the new Chancellor presents the hope that economic, social and cultural rights will be elevated to new heights. The Committee recommends, therefore, that this new policy be translated into deeds as soon as possible.

26. The Committee requests the State Party to provide in its next report more precise statistics and data regarding unemployment, especially in the new Länder, and the number and situation of poverty-stricken people and social security recipients.

27. The Committee strongly recommends that the State Party promote discussion within German society on social indicators or bench marks for the implementation of the Covenant. It also encourages the Government to continue to support the dialogue on the elaboration of an optional protocol to the Covenant in order to lend greater support to the realization of economic, social and cultural rights.

28. The Committee requests the State Party to take immediate measures, legislative or otherwise, to address and redress the situation of the various categories of asylum seekers, in accordance with General Comment No. 4 of the Committee. It also suggests that the applications of asylum seekers be processed expeditiously and that refugees be accorded health, economic and educational rights in accordance with the Covenant.

29. The Committee urges the State Party to implement the various educational programmes for young people and other vulnerable groups, especially those intended to create employment and to improve the level of employment in East Germany.

30. Pension plans and social security benefits need thorough revision to ensure gender equality and fairness among all eligible beneficiaries in all the Länder, in the East and in the West.

31. The Committee recommends that civil servants not involved in essential services be accorded the right to strike.

32. The Committee calls on the State Party to take affirmative and effective measures against trafficking in women and their exploitation for whatever purpose.

33. The Committee also calls on the State Party to take effective measures to regulate child labour, in compliance with the Covenant and the relevant ILO conventions.

34. The Committee further calls on the State Party to make increased efforts to prevent child abuse, child exploitation and child pornography.

35. The Committee urges the State Party to provide more adequate assistance to persons within HIV/AIDS, without any discrimination on the basis of race, origin, nationality or gender.

36. As an act of national reconciliation, the Committee calls on the State Party to ensure that compensation will be provided to civil servants, professionals and scientists associated with the old regime in the former German Democratic Republic and to ensure that such compensation is both adequate and fair.

37. The Committee recommends that the State Party avoid increases in university tuition fees, in compliance with article 13 of the Covenant.

38. The Committee urges the State Party to accelerate the integration of East and West Germany on all fronts, with a view to reducing the gap that may still exist between them.

39. The Committee requests the State Party to disseminate widely its concluding observations at all levels of society and to inform the Committee of steps taken for their implementation. It also urges the Government to consult with non-governmental organizations in the preparation of its fourth periodic report, as German non-governmental organizations have made a valuable contribution to making the Committee's dialogue with the State Party delegation a more fruitful and significant one.